

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 12, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONICA PESINA, (01),
NICHOLAS SEAN CARTER, (02),

Defendants.

No. 4:19-cr-06063-SMJ

**ORDER GRANTING
DEFENDANTS MONICA PESINA
AND NICHOLAS SEAN CARTER
MOTION TO CONTINUE**

**AMENDED¹ CASE
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Nicholas Sean Carter's Motion to Continue Trial Date and Pre-Trial Conference and Reset Deadlines, ECF No. 55. Defense counsel Nicholas Wright Marchi requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant supports counsel's request for a trial continuance for the articulated reasons. ECF No. 56. Co-defendant Monica Pesina also supports the requested

¹ This Order amends and supersedes in part the Court's November 12, 2019 Case Management Order, ECF No. 41.

1 continuance. ECF No. 57. Assistant U.S. Attorney Stephanie A Van Marter,
2 appearing on behalf of the Government, does not oppose the request. ECF No. 55
3 at 1.

4 The Indictment was filed on November 6, 2019. ECF No. 6. Defense counsel
5 appeared for Defendant on November 24, 2019. ECF No. 49. This is Defendants'
6 first request for a continuance.

7 To ensure defense counsel is afforded adequate time to review discovery,
8 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
9 grants the motion, extends the pretrial motion deadline, and resets the currently-
10 scheduled pretrial conference and trial dates. The Court finds that Defendants'
11 continuance request is knowing, intelligent, and voluntary, and that the ends of
12 justice served by granting a continuance outweigh the best interest of the public and
13 Defendant in a speedy trial. The delay resulting from Defendants' motion is
14 therefore excluded under the Speedy Trial Act.

15 Counsel are advised that all second or successive continuance requests will
16 be closely scrutinized for the necessity of more time to effectively prepare, taking
17 into account the exercise of due diligence.

18 Having considered the parties' proposed case schedule and deadlines, the
19 Court now enters the following Amended Case Management Order, which sets forth
20 the deadlines, hearings, and requirements the parties will observe in this matter. To

1 the extent this Order conflicts with any previously-entered Orders in this matter,
2 this Order shall govern. All counsel are expected to carefully read and abide by this
3 Order and such provisions of the current CMO which have not been superseded
4 hereby. The Court will grant relief from the requirements in this Order only upon
5 motion and good cause shown.

6 Accordingly, **IT IS HEREBY ORDERED:**

- 7 1. Defendants' Motion to Continue Trial Date and Pre-Trial Conference
8 and Reset Deadlines, **ECF No. 55**, is **GRANTED**.
- 9 2. The Court finds, given defense counsel's need for time to review
10 discovery, prepare any pretrial motions, conduct investigation, and
11 prepare for trial, that failing to grant a continuance would result in a
12 miscarriage of justice and would deny defense counsel the reasonable
13 time necessary for effective preparation, taking into account the
14 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The
15 Court, therefore, finds the ends of justice served by granting a
16 continuance in this matter outweigh the best interest of the public and
17 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).
- 18 3. **Original CMO.** Counsel must review the provisions of the original
19 November 12, 2019 CMO, ECF No. 41, and abide by those procedures
20 which remain in full force and effect and are incorporated herein

except for the new compliance deadlines in the following Summary of Amended Deadlines.

4. Pretrial Conference

A. The current pretrial conference date of December 19, 2019, is **STRICKEN** and **RESET** to February 6, 2020, at **10:30 AM** in **RICHLAND**. At this hearing, the Court will hear **ALL** pretrial motions that are noted for oral argument.

B. All Pretrial Conferences are scheduled to last no more than **thirty (30) minutes**, with each side allotted **fifteen (15) minutes** to present their own motions and resist motions by opposing counsel. If any party anticipates requiring longer than fifteen minutes, that party must notify the Courtroom Deputy at least seven (7) days prior to the hearing. **Any party who fails to provide this notice will be limited to fifteen (15) minutes.**

5. **Trial.** The current trial date of January 13, 2020, is **STRICKEN** and
RESET to March 16, 2020, at **9:00 AM** in **RICHLAND**. The **final**
pretrial conference will begin at **8:30 A.M.**

6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
DECLARES EXCLUDABLE from Speedy Trial Act calculations
the period from **December 6, 2019**, the date defense counsel moved to

1 continue, through **March 16, 2020**, the new trial date, as the period of
 2 delay granted for adequate preparation by counsel.

3 **7. Summary of Deadlines**

4 All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	January 6, 2020
5 PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	February 6, 2020 10:30 AM - RICHLAND
7 CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	February 6, 2020
8 Grand jury transcripts produced to Defendants Case Agent: CIs: Other Witnesses:	February 6, 2020 February 6, 2020 February 6, 2020
10 Exhibit lists filed and emailed to the Court	March 9, 2020
11 Witness lists filed and emailed to the Court	March 9, 2020
12 Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	March 9, 2020
13 Exhibit binders delivered to all parties and to the Court	March 9, 2020
14 Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	March 9, 2020
15 Trial notices filed with the Court	March 12, 2020
16 Technology readiness meeting (in-person)	March 12, 2020
17 JURY TRIAL	March 16, 2020 9:00 AM - RICHLAND

16 //

17 //

18 //

19 //

1 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
2 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
3 Service.

4 **DATED** this 12th day of December 2019.

5 
6 SALVADOR MENDOZA, JR.
United States District Judge